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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,079	02/16/2000	Gail M. Clinton	49321-1A	5713

7590 10/27/2005
Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

EXAMINER

UNGAR, SUSAN NMN

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/506,079	Applicant(s) CLINTON ET AL.	
	Examiner Susan Ungar	Art Unit 1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3, 8-10, 18-20 and 38-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 1-3, 8-10, 18-20, 38-49 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The Amendment filed January 18, 2005 in response to the Office Action of July 16, 2004 is acknowledged and has been entered. Previously pending claims 1, 3, 8, 10, 18-20, 38-42 and 46 have been amended. Claims 1-3, 8-10, 18-20, 38-49 are currently being examined.

2. Upon review and reconsideration and in view of the newly amended claims, Restriction to one of the following inventions is required under 35 U.S.C. 121:

Groups 1-11. Claims 1-3, 8-10, 18-20, 38-49 are drawn to eleven isolated polypeptides comprising an amino acid sequence selected from the group consisting of SEQ ID Nos 14 and 19-28 and sequences selected from the group consisting of SEQ ID Nos 15 and 29-38 as well as pharmaceutical compositions comprising said sequences, classified in Class 530, subclass 350+. It is noted that sequences 14 and 19-28 are related to SEQ ID Nos 15 and 29-38 because SEQ ID Nos 14 and 19-28 are each 79 amino acid sequences that correspond to the 79 amino acid residues of each of SEQ ID Nos 15 and 29-38, respectively. Thus, since the claims drawn to SEQ ID Nos 15 and 29-38 require that the 79 amino acid residues of SEQ ID Nos 14 and 19-28, respectively, "be present", election of one of SEQ ID Nos 14 and 19-28 will result in the simultaneous election of the one of SEQ ID Nos 15 and 29-38 which specifically corresponds to the sequence of the elected SEQ ID Nos 14 and 19-28, classified in Class 435, subclass 6.

3. The inventions are distinct, each from the other because of the following reasons:

The invention of Groups 1-11 are materially distinct products having different structural formulas. For example, the inventions of Groups 1-11 are drawn to polypeptide sequences which are different in structure and thus, for the

reasons of record, would be expected to have different functions. Since they have different structures and thus would be expected to have different functions that would be used in different methods and would be made by different methods. Because the 11 sequences would require 11 different sequence searches, this would invoke a serious search burden on the office, given the size of the databases that must be searched for each invention.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. 1.48(b) and by the fee required under 37 C.F.R. 1.17(h).

7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.

A handwritten signature in black ink, appearing to read 'Susan Ungar', with a stylized flourish at the end.

Susan Ungar, PhD
Primary Patent Examiner
October 25, 2005